



CITY OF HAYWARD AGENDA REPORT

Meeting Date 10/17/02
Agenda Item 1

TO: Planning Commission

FROM: Tim R. Koonze, Assistant Planner

SUBJECT: **Appeal of the Planning Director's Denial of Tentative Parcel Map 7690 – Ed Fuentes (Applicant/Owner)** - Request to Subdivide a 9,000± Square-Foot Parcel into Two Parcels - The Property is Located at 22838 Francisco Street in an CC-C (Central City Commercial) Subdistrict

RECOMMENDATION:

Staff recommends that the Planning Commission uphold the action of the Planning Director and deny Tentative Parcel Map 7690 and the associated rear yard variance subject to the attached findings.

DISCUSSION:

On July 2, 2002, the Planning Director denied Tentative Parcel Map 7690 and the associated rear yard variance citing that the proposed subdivision is not consistent with the General Plan and the Downtown Hayward Design Plan and that findings could not be made to support a reduction in the rear yard from the required 15 feet to 5 feet. The Planning Division received an appeal letter from the property owner on July 17, 2002 stating that he believes that the project is consistent with the General Plan, applicable specific and neighborhood plans, and the City's Zoning Ordinance.

The request is to subdivide a 9,000±-square-foot parcel into two parcels of 4,655 and 4,350-square feet. The parcel is relatively flat and rectangular in shape. There is a one-story single-family home fronting on Francisco Street and a two story commercial building facing Mission Boulevard. The three existing trees and both buildings are to remain. The site is located within the limits of the Downtown Design Plan and the Core area Specific Plan.

The General Plan Land Use and Housing policies and strategies encourage high-density development for transit-oriented projects with emphasis put on projects located within one-half mile of a BART station and one-quarter mile of a major bus route. The property fronts onto Mission Boulevard, which is a major arterial that provides high exposure for the site along one of Hayward's main entryways. The Hayward BART station is located approximately one-third of a mile away. AC Transit has several bus routes along Mission Boulevard and D Street, which is 150 feet away.

The existing single-story single-family home is well maintained but has no significant historical or architectural value. The existing commercial building, which is in need of maintenance, includes a

The existing single-story single-family home is well maintained but has no significant historical or architectural value. The existing commercial building, which is in need of maintenance, includes a residential unit on the second floor. Staff's recommendation to deny the lot split takes into consideration the long term goals of the City, but in the short term, there is concern that the buildings on the site could suffer from deferred maintenance because of difficulties in finding a lending institution who will provide a loan on a mixed-use property.

The commercial building is a classic two-story Italianate structure with a wood clad false front and has some historical value. This style was popular in the West, after the Gold Rush, as a way to make hastily built town buildings look more like the commercial buildings of the East and to create a more urban atmosphere. A staircase at the rear of the building provides access to the upper-story residence. Preservation and rehabilitation of this building is desirable.

The single-family residence has a gravel driveway that can accommodate two off-street parking spaces. There is no parking provided for the commercial building. No variances or parking improvements are proposed. The Off-Street Parking Regulations state that a structure shall not be deemed nonconforming solely because of the lack of off-street parking.

Conformance To City Regulations:

The *Downtown Hayward Design Plan* and *General Policies Plan* recognizes that the downtown area is changing, focusing on a pedestrian-oriented center inviting residents and visitors from BART to stroll into the central business area. It is being revitalized and is depending on new commercial and residential development to help create a vibrant neighborhood. The *General Plan Land Use Map* designates this site as Retail and Office Commercial. The *Zoning Ordinance* implements the policies expressed in these documents.

The following are requirements, policies and strategies from these documents that are applicable to the subject parcel:

Downtown Hayward Design Plan

The Minimum Development Sites section of the *Downtown Hayward Design Plan* identifies this parcel as being within the "Project Expansion Area" which regulates that the minimum size of a development site shall be 10,000 square feet and no site shall be developed so as to create a remnant development site of less than 10,000 square feet. Subdividing the existing 9,000± square-foot parcel into smaller lots would be inconsistent with this directive.

The CC-C Subdistrict definition within the *Downtown Hayward Design Plan* reflects the Zoning Ordinance. Recognizing the need for higher-density residential and retail development in the downtown area at a density of 50 units per acre has been established with a height limitation of 55 feet and 90 percent lot coverage. Reducing the parcel sizes would limit their ability to take advantage of these generous development inducements established for the downtown area.

General Plan Policies and Strategies

The site is encouraged to be developed with high density residential or retail as it is located in the downtown area one-quarter mile from the Hayward BART station, near major AC Transit lines and numerous public amenities. Creating two small parcels restricts the potential for quality development that meets City guidelines. The policies and strategies below are guidelines toward the revitalization of Hayward's downtown commercial retail, which promotes pedestrian-oriented development by constructing or rehabilitating continuous retail frontage and creating nearby high-density housing to support the retail. Subdividing the property into two small parcels limits the construction of a new commercial building or the rehabilitation of the existing commercial building. It would also inhibit high-density development possibilities. This area should be striving towards consolidation rather than subdivision of parcels.

Land Use:

Transit-Oriented Development

- Support higher-intensity and well-designed quality development in areas within ½ mile of transit stations and ¼ mile of major bus routes in order to encourage non-automotive modes of travel. (p. 2-17)

Downtown Area

- Continue to implement the Downtown Design Plan and the Core Area Specific Plan.
- Recognize the importance of continuous retail frontage to pedestrian shopping areas by discouraging unwanted intrusion of other uses that weaken the attractiveness of retail areas; encourage residential and office uses to locate above retail uses. (p. 2-18)

Economic Development Policies and Strategies:

Community Development

- Utilize an economic strategy that balances the need for development with other City goals and objectives. (p. 4-17)

Land and Infrastructure

- Revitalize declining commercial and industrial areas and obsolete facilities through rezoning, redevelopment, rehabilitation and other available means. (p. 4-17)

Housing Strategies:

Expand the Housing Supply

- Encourage high-density residential development along major arterials and near major activity or transit centers. (p. 5-39)

Zoning Ordinance

The *Zoning Ordinance* designates this site as being within the CC-C (Central City Commercial) Subdistrict, the purpose of which is to establish a mix of businesses and other activities to enhance the economic vitality of the downtown area. To allow the greatest development potential of properties within the district there are no lot size, lot width, frontage, or lot depth requirements allowing maximum flexibility in development design. There are two existing non-conforming parcels on Francisco Street that have similar layouts that appear to have existed since the 1940's. These parcels have never received City approvals nor has the City approved any parcel split or variance on Francisco Street.

The Zoning Ordinance refers to the *Downtown Hayward Design Plan* for density and height requirements. Recognizing the need to encourage high-density development in this area a generous 50 units per acre and 55-foot height requirements have been established to maximize development.

The Zoning Ordinance requires a 15-foot setback for residential uses and other uses abutting residentially developed property. Therefore each building must set back 15-feet from the rear property line. This cannot be achieved as there is only 27-feet between the two buildings. The subdivider is proposing a 5-foot rear yard setback for the single-family home and a 22-foot rear yard setback for the commercial building. The property is rectangular in shape and there are no special circumstances applicable to the property such as size, shape, topography, location, etc. that would warrant support of this variance.

STREETS AND UTILITIES:

There is no curb, gutter and sidewalk on Francisco Street. If the subdivision is approved, the owner will be required to enter into a deferred street improvement agreement to install frontage improvements at the time it is requested by the City Engineer. Mission Boulevard is fully improved and fully dedicated. Water, sewer, and storm drain mains within the abutting streets have adequate capacity to serve the project.

ENVIRONMENTAL REVIEW:

Projects that are denied do not require CEQA review. Should the Planning Commission wish to consider approval of all or part of the proposed project, staff will have to prepare an initial study to determine whether a Negative Declaration or an Environmental Impact Report (EIR) will be required. At this time, staff believes that an EIR may be required because there is no way to mitigate the inconsistency of the use with the General Policies Plan.

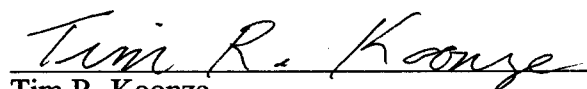
PUBLIC HEARING NOTICE:

A notice was mailed to all property owners and tenants within 300 feet of the subject property and to all interested parties regarding a preliminary meeting held on October 11, 2001. No citizens attended. These same citizens were also sent notices of the Planning Commission meeting and a meeting notice was published in the local newspaper on September 12, 2002.

CONCLUSION:

The subdivision is inconsistent with the *Downtown Hayward Design Plan*, the Land Use, Economic Development, and Housing Elements of the *General Policies Plan*, and the *Zoning Ordinance* in that it would create small lots that are not able to accommodate the type of retail and high-density residential development envisioned by these documents.

Prepared by:



Tim R. Koonze
Assistant Planner

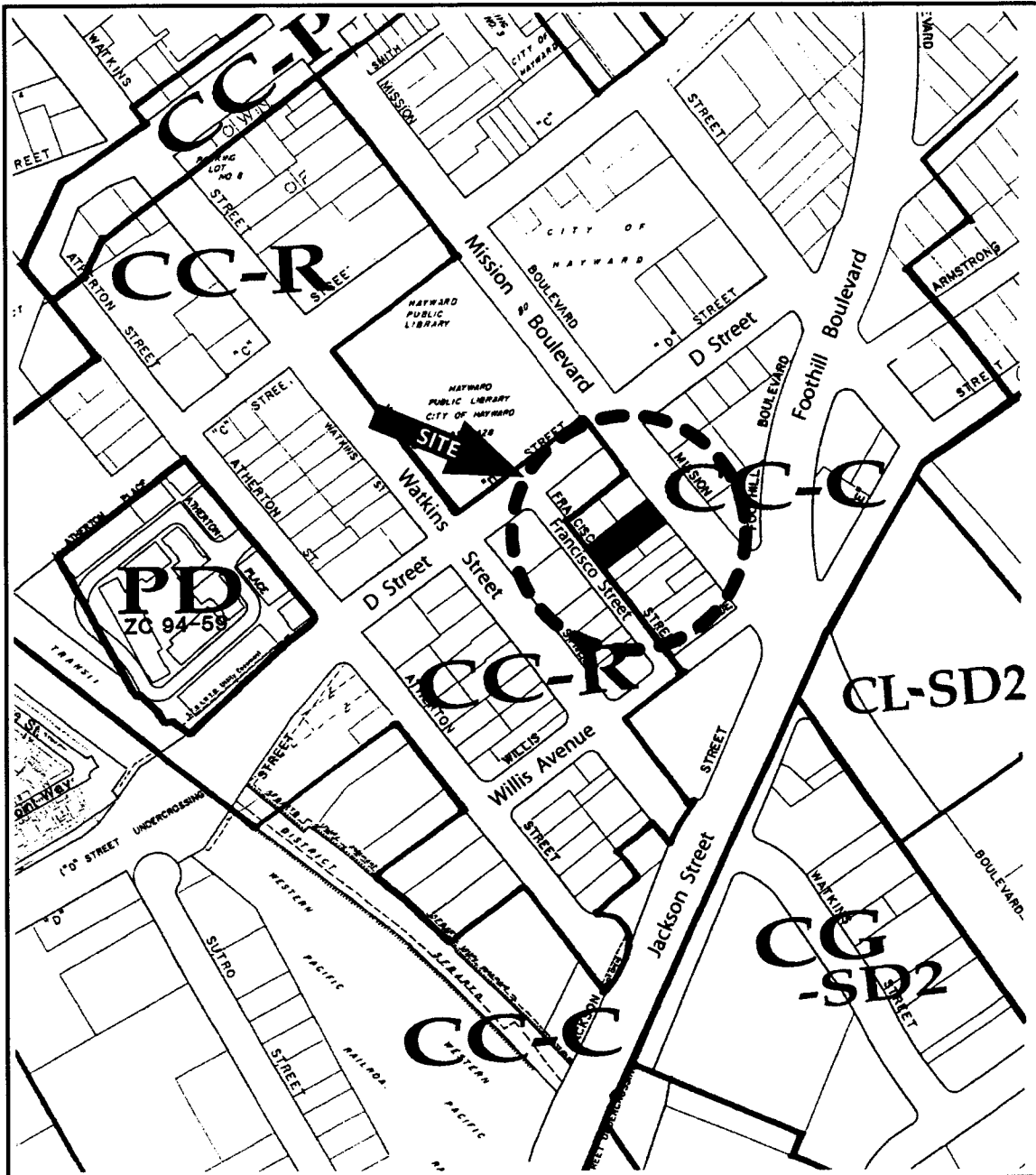
Recommended by:



Dyana Anderly, AICP
Planning Manager

Attachments:

- A. Area Map
- B. Findings for Denial – Tentative Parcel Map 7690
- C. Applicants' Appeal Letter
Tentative Parcel Map 7690



AREA MAP - PARCEL 7690

**FINDINGS FOR DENIAL
TENTATIVE PARCEL MAP 7690**

- A. The finding set forth in Section 64474 (a) of the Subdivision Map Act¹ has been made in that the subdivision is not consistent with the General Policies Plan, which is identified as grounds for denial of this subdivision.
- B. The subdivision is inconsistent with the *General Policies Plan* in that the subdivision of the property creates small lots that are not conducive to high density residential development or strip retail development as specified in the policies and strategies of the Land Use, Economic Development and Housing sections of the *General Policies Plan*.
- C. The subdivision is inconsistent with the *Zoning Ordinance* in that creating small parcels limits development potential within the Central City Commercial (CC-C) District thereby reducing the potential effectiveness the property has of enhancing the economic vitality of the downtown area as specified in Section 10-1.1521 of the *Zoning Ordinance*.
- D. The subdivision is inconsistent with the *Downtown Design Plan* in that the subject parcel is within the "Project Expansion Area" that specifies that no site shall be developed under 10,000 square feet and no site shall be developed so as to create a remnant development site of less than 10,000 square feet. Although the existing 9,000± square-foot-parcel is shy of the 10,000 square-foot minimum requirement, subdividing it further is in contrast to the direction provided within the Minimum Development Sites section of the *Downtown Design Plan*.

Findings for Denial of Variance to required Rear Yard

- A. The property does not have any unusual shape or special circumstances to warrant a variance to the rear yard. The parcel is a flat rectangular shaped parcel that has two existing buildings and two street frontages.
- B. No other parcels in this zoning district have been granted a variance to the rear yard; therefore, application of Zoning Ordinance requirements would not deprive the property of privileges enjoyed by other properties in the vicinity under the same zoning classification.
- C. Granting a variance would constitute a grant of a special privilege as no other rear yard variances within the zone and vicinity in which the property is located.

¹ The findings of Section 66474 set forth the grounds for denial of a tentative map which are as follows:

- (a) That the proposed map is not consistent with applicable general and specific plans as specified in Section 65451.
- (b) That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.
- (c) That the site is not physically suitable for the type of development.
- (d) That the site is not physically suitable for the proposed density of development.
- (e) That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
- (f) That the design of the subdivision or type of improvements is likely to cause serious public health problems.
- (g) That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property with the proposed subdivision.

RECEIVED

JUL 17 2002

PLANNING DIVISION

July 15, 2002

Ms. Dyana Anderly
Planning Director
City of Hayward
777 B Street
Hayward, CA 94541

SENT Via Fax (510-583-3649) and Register Mail

Re: Appeal of Administrative Denial – Francisco Street Subdivision

Dear Ms. Anderly,

I received the postcard "Notice of Decision" declaring your administrative denial of my subdivision application.

I hereby appeal your decision and await my hearing before the Planning Commission.

The specific grounds of my appeal are that my subdivision project is consistent with the General Plan and applicable specific plans and neighborhood plans and my subdivision project is consistent with the City Zoning Ordinance, therefore, it should be approved.

Regards,



Eulalio (Ed) Fuentes
22838 Francisco Street
Hayward, CA 94541

ATTACHMENT C